

## **IC 36-8-10**

### **Chapter 10. Sheriff's Department; Merit Board; Pensions**

## **IC 36-8-10-1**

### **Application of chapter**

Sec. 1. This chapter applies to all counties.

*As added by Acts 1981, P.L.309, SEC.61.*

## **IC 36-8-10-2**

### **Definitions**

Sec. 2. As used in this chapter:

"Board" refers to the sheriff's merit board established under this chapter.

"Department" refers to the sheriff's department of a county.

"Eligible employee" means the sheriff of a county or a county police officer.

"Employee beneficiary" means an eligible employee who has completed an application to become an employee beneficiary and who has had the proper deductions made from his wages as required in the pension trust agreement.

"Net amount paid into the trust fund from wages of an employee beneficiary" means the amount of money actually paid in from the wages of the employee beneficiary, plus interest at the rate of three percent (3%) compounded annually and less a sum including interest at the same rate, paid from the trust fund to the employee beneficiary or to a governmental fund for the credit or benefit of the employee beneficiary.

"Pension engineers" means technical consultants qualified to supervise and assist in the establishment, maintenance, and operation of a pension trust on an actuarially sound basis.

"Trust fund" means the assets of the pension trust and consists of voluntary contributions from the department, money paid from the wages of employee beneficiaries, and other payments or contributions made to the pension trust, including the income and proceeds derived from the investment of them.

"Trustee" refers to the trustee of the pension trust, who may be one (1) or more corporate trustees or the treasurer of the county serving under bond.

*As added by Acts 1981, P.L.309, SEC.61.*

## **IC 36-8-10-3**

### **Sheriff's merit board**

Sec. 3. (a) The fiscal body of each county shall, by ordinance, establish a sheriff's merit board to be known as the \_\_\_\_\_ county sheriff's merit board (inserting the name of the county).

(b) The board consists of five (5) members. Three (3) members shall be appointed by the sheriff, and two (2) members shall be elected by a majority vote of the members of the county police force under procedures established by the sheriff's merit board. However,

no active county police officer may serve on the board. Appointments are for terms of four (4) years or for the remainder of an unexpired term. Not more than two (2) of the members appointed by the sheriff nor more than one (1) of the members elected by the officers may belong to the same political party. All members must reside in the county. All members serve during their respective terms and until their successors have been appointed and qualified. A member may be removed for cause duly adjudicated by declaratory judgment of the circuit court of the county.

(c) As compensation for service, each member of the board is entitled to receive from the county a minimum of fifteen dollars (\$15) per day for each day, or fraction of a day, that the member is engaged in transacting the business of the board.

(d) As soon as practicable after the members of the board have been appointed, they shall meet upon the call of the sheriff and organize by electing a president and a secretary from among their membership. Three (3) members of the board constitute a quorum for the transaction of business. The board shall hold regular monthly meetings throughout the year as is necessary to transact the business of the sheriff's department.

*As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1981, P.L.315, SEC.7; P.L.310-1989, SEC.2.*

#### **IC 36-8-10-4**

##### **County police force; creation; membership; budget and salaries**

Sec. 4. (a) A county police force is established in each county. The members are employees of the county, and the sheriff of the county shall assign their duties according to law.

(b) The expenses of the county police force are a part of the sheriff's department budget. The board may recommend the number and salary of the personnel, but the county fiscal body shall determine the budget and salaries.

(c) The county shall furnish to the sheriff and his full-time paid county police officers the uniforms or other clothing they need to perform their duties. However, after one (1) year of service in the sheriff's department, a sheriff or county police officer may be required by the county to furnish and maintain his own uniform clothing upon payment to him by the county of an annual cash allowance of at least two hundred dollars (\$200).

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.131-1983, SEC.13.*

#### **IC 36-8-10-5**

##### **Prison matron; appointment; powers and duties**

Sec. 5. (a) Each sheriff shall appoint a prison matron for the county. The sheriff shall set the qualifications for that position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A prison matron who was a county police officer appointed under section 10(b) of this chapter immediately before being hired

as prison matron is entitled to the discipline and removal procedures under section 11 of this chapter before:

- (1) being reduced in grade to a rank below the rank that the person held before being hired as prison matron; or
- (2) removal from the department.
- (c) The sheriff may employ assistant prison matrons if necessary.
- (d) The prison matron or the prison matron's assistants shall receive, search, and care for all female prisoners and all boys under fourteen (14) years of age who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.
- (e) The prison matron and assistant matrons:
  - (1) are members of the department;
  - (2) have the powers and duties of members of the department; and
  - (3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid.

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.237-1996, SEC.1.*

### **IC 36-8-10-5.5**

#### **Chief deputy**

Sec. 5.5. (a) Except as provided in subsection (b), the sheriff has complete hiring authority over the position of chief deputy.

(b) A chief deputy who was a county police officer appointed under section 10(b) of this chapter immediately before being hired as chief deputy is entitled to the discipline and removal procedures under section 11 of this chapter before:

- (1) being reduced in grade to a rank below the rank that the person held before being hired as chief deputy; or
- (2) removal from the department.

*As added by P.L.237-1996, SEC.2.*

### **IC 36-8-10-6**

#### **Emergencies; appointment of additional deputies and assistants**

Sec. 6. (a) A sheriff may appoint additional deputy sheriffs or assistants if an emergency arises that requires them for:

- (1) promoting public safety and conserving the peace;
- (2) repressing, preventing, and detecting crime; and
- (3) apprehending criminals.

(b) The county executive shall determine the number and salaries of deputy sheriffs or assistants to be appointed in an emergency. The executive shall provide compensation and necessary expenses for them from the general fund of the county without a specific appropriation. Expenses shall be paid after the appointed persons file sworn vouchers with the executive detailing their expenses.

(c) The deputies or assistants have the same powers that sheriffs have under statute.

(d) The deputy sheriffs or assistants must have been bona fide residents of the county for at least one (1) year before their appointment. This subsection does not apply to a county having a

consolidated city.

(e) When the emergency ends, the county executive may reduce the number of deputy sheriffs or assistants to the number that the circumstances require for the public welfare.

*As added by Acts 1981, P.L.309, SEC.61.*

### **IC 36-8-10-7**

#### **Prisoner meal allowances**

Sec. 7. (a) The state examiner of the state board of accounts shall fix the exact amount per meal that the sheriff of each county receives for feeding the prisoners in the sheriff's custody. Subject to the maximum meal allowance provided in this section, the state examiner shall increase the amount per meal that a sheriff receives as follows:

(1) Increase the amount per meal by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

(2) Increase the amount per meal above the amount determined under subdivision (1) if the sheriff furnishes to the state examiner sufficient documentation to prove that the sheriff cannot provide meals at the amount per meal that is determined under subdivision (1).

The amount must be fixed by April 15 each year and takes effect immediately upon approval. The allowance may not exceed two dollars (\$2) per person per meal. The allowance shall be paid out of the general fund of the county after the sheriff submits to the county executive an itemized statement, under oath, showing the names of the prisoners, the date that each was imprisoned in the county jail, and the number of meals served to each prisoner.

(b) Notwithstanding subsection (a), IC 36-2-13-2.5(b)(4) through IC 36-2-13-2.5(b)(5), and IC 36-2-13-2.8(b), this subsection applies to a county having a population of:

(1) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000); or

(2) more than three hundred thousand (300,000).

A county shall feed the county prisoners through an appropriation in the usual manner by the county fiscal body. The appropriation shall be expended by the sheriff under the direction of the county executive. If a county has a population of less than four hundred thousand (400,000), an accounting of the expenditures must be filed monthly with the county auditor by the fifth day of the month following the expenditure. If a county has a population of four hundred thousand (400,000) or more, an accounting of the expenditures must be filed with the county auditor on the first Monday of January and the first Monday of July of each year. Neither the sheriff nor the sheriff's officers, deputies, and employees may make a profit as a result of the appropriation.

*As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1982, P.L.215, SEC.1; P.L.227-1991, SEC.1; P.L.12-1992, SEC.173;*

*P.L.83-1993, SEC.3; P.L.230-1996, SEC.2; P.L.170-2002, SEC.163.*

#### **IC 36-8-10-8**

##### **Reinstatement of sheriff following expiration of term of office**

Sec. 8. A member of the department who becomes sheriff either by election or by appointment shall, upon the expiration of his term and upon his written application, be appointed by the board to the rank in the department that he held at the time of his election or appointment as sheriff, if there is a vacancy in the department. However, if the sheriff during his tenure of office has qualified in accordance with the promotion procedure prescribed by the board in its rules for a rank in the department that is higher than the rank he previously held, the board shall, upon the expiration of his term as sheriff, appoint him to the rank for which he has qualified under the promotion procedure if there is a vacancy in that rank.

*As added by Acts 1981, P.L.309, SEC.61.*

#### **IC 36-8-10-9**

##### **Powers and duties of members of department**

Sec. 9. (a) Each member of the department:

- (1) has general police powers;
- (2) shall arrest, without process, all persons who commit an offense within his view, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
- (3) shall suppress all breaches of the peace within his knowledge, with authority to call to his aid the power of the county;
- (4) shall pursue and commit to the jail of the county all felons;
- (5) may execute all process directed to the sheriff by legal authority;
- (6) shall attend upon and preserve order in all courts of the county;
- (7) shall guard prisoners in the county jail;
- (8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and
- (9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in subsection (a)(9), commits a Class C misdemeanor.

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.344-1983, SEC.2.*

#### **IC 36-8-10-10**

##### **Police officers; classification of ranks, grades, and positions;**

### **appointments**

Sec. 10. (a) Except for the position of chief deputy, the position of prison matron, and in a county with a population of more than fifty thousand (50,000), temporary administrative ranks or positions established and appointed by the sheriff, the sheriff, with the approval of the board, shall establish a classification of ranks, grades, and positions for county police officers in the department. For each rank, grade, and position established, the sheriff, with the approval of the board, shall:

- (1) set reasonable standards of qualifications; and
- (2) fix the prerequisites of:
  - (A) training;
  - (B) education; and
  - (C) experience.

(b) The sheriff, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the sheriff and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the sheriff and the board, best meet the prescribed standards and prerequisites. The sheriff appoints county police officers but only from among the persons whose names appear on this list. All county police officers appointed to the department under this chapter are on probation for a period of one (1) year from the date of appointment.

(c) In a county with a population of more than fifty thousand (50,000), the sheriff may:

- (1) establish a temporary administrative rank or position within the county police department; and
- (2) appoint a county police officer that has served as a county police officer for at least five (5) years to and remove a county police officer from a temporary administrative rank or position; without the approval of the board. Any temporary administrative rank or position established pursuant to this section shall not diminish or reduce the number and classifications of the existing merit ranks within the county police department. A county police officer appointed under this subsection must have served as a county police officer in the county police department for at least five (5) years before the appointment. A county police officer retains the rank, grade, or position awarded under subsection (b) while serving in a temporary administrative rank or position. This subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

(d) In a county with a population of more than fifty thousand (50,000), the sheriff, with the approval of the board, shall establish written rules and regulations governing the discipline of county police officers. Rules and regulations established by a sheriff under this subsection must conform to the disciplinary procedure required by section 11 of this chapter.

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.131-1983, SEC.14; P.L.314-1989, SEC.1; P.L.237-1996, SEC.3; P.L.270-1999,*

*SEC.1; P.L.14-2000, SEC.83.*

#### **IC 36-8-10-10.4**

##### **County police force; preference for employment**

Sec. 10.4. (a) Subject to subsection (b), the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) A person described in subsection (a) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the department.

*As added by P.L.95-2003, SEC.2.*

#### **IC 36-8-10-10.5 Repealed**

*(Repealed by P.L.311-1983, SEC.49.)*

#### **IC 36-8-10-10.6**

##### **Special deputies with powers of law enforcement officer; appointment; qualifications; duties**

Sec. 10.6. (a) The sheriff may appoint as a special deputy any person who is employed by a governmental entity as defined in IC 35-41-1 or private employer, the nature of which employment necessitates that the person have the powers of a law enforcement officer. During the term of his appointment and while he is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a county police officer under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy. A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department. A special deputy may be removed by the sheriff at any time, without notice and without assigning any cause.

(b) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be twenty-one (21) years of age or older;

(2) never have been convicted of a felony, or a misdemeanor involving moral turpitude;

(3) be of good moral character; and

(4) have sufficient training to insure the proper performance of their authorized duties.

(c) Except as provided in subsection (d), a special deputy shall

wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the regular county police force, and all municipal police and fire forces located in the county.

(d) The sheriff may permit a special deputy to wear the uniform of the regular county police force if the special deputy:

- (1) has successfully completed the minimum basic training requirements under IC 5-2-1;
- (2) is periodically assigned by the sheriff to duties of a regular county police officer; and
- (3) is an employee of the department.

The sheriff may revoke permission for the special deputy to wear the uniform of the regular county police force at any time without cause or notice.

(e) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. However, neither the legal deputy nor any attorney in partnership with him may represent a defendant in a criminal case.

(f) The sheriff, for the purpose of guarding prisoners in the county jail:

- (1) in counties not having a consolidated city, may appoint special deputies to serve as county jail guards; and
- (2) in counties having a consolidated city, shall appoint only special deputies to serve as county jail guards.

This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

*As added by P.L.311-1983, SEC.45. Amended by P.L.48-1987, SEC.2.*

### **IC 36-8-10-11**

#### **Police officers; discipline and removal; hearings; notice; appeal; specific findings; final judgment; venue**

Sec. 11. (a) The sheriff may dismiss, demote, or temporarily suspend a county police officer for cause after preferring charges in writing and after a fair public hearing before the board, which is reviewable in the circuit court. Written notice of the charges and hearing must be delivered by certified mail to the officer to be disciplined at least fourteen (14) days before the date set for the hearing. The officer may be represented by counsel. The board shall make specific findings of fact in writing to support its decision.

(b) The sheriff may temporarily suspend an officer with or without pay for a period not exceeding fifteen (15) days, without a hearing before the board, after preferring charges of misconduct in writing delivered to the officer.

(c) A county police officer may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the officer's probationary period, except as provided in this section. An officer may:



(1) be a candidate for elective office and serve in that office if elected;

(2) be appointed to an office and serve in that office if appointed; and

(3) except when in uniform or on duty, solicit votes or campaign funds for the officer or others.

(d) The board has subpoena powers enforceable by the circuit court for hearings under this section. An officer on probation may be dismissed by the sheriff without a right to a hearing.

(e) An appeal under subsection (a) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the officer, the decision of the board, and a demand for the relief asserted by the officer. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs only if the court finds that the board's decision should be affirmed. The bond must be approved as bonds for costs are approved in other cases. The county must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county. Neither the board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(f) All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the board was made. Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the board before the appeal is filed, if requested. The court shall review the record and decision of the board on appeal.

(g) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the board appealed from should in all things be affirmed, its judgment should so state. If the court finds that the decision of the board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

(1) reverse the decision of the board; or

(2) order the decision of the board to be modified.

(h) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

(i) Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The rules of trial procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.

(j) An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.

*As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1981, P.L.315, SEC.9; P.L.347-1985, SEC.1; P.L.350-1987, SEC.1; P.L.197-1988, SEC.1; P.L.265-1993, SEC.5.*

### **IC 36-8-10-11.1**

#### **Reinstatement following layoffs**

Sec. 11.1. (a) As used in this section, "appointing authority" means the sheriff and the board.

(b) If it is necessary for the appointing authority to reduce the number of members of the department by layoff for financial reasons, the last member appointed to the department must be the first to be laid off. Additional members must be laid off in reverse hiring order until the desired level of employment is achieved.

(c) If department membership is increased, the members of the department who have been laid off under this section must be reinstated before any new member is appointed to the department. The last member to be laid off from the department must be the first to be reinstated. Additional members must be reinstated in reverse of the order in which the members were laid off.

(d) A member who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) calendar days after the date notice of reinstatement is sent under subsection (d), the member must advise the appointing authority whether the member:

- (1) accepts reinstatement; and
- (2) will be able to commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

- (1) the date the member fails to accept reinstatement within the time specified in subsection (e); or
- (2) three (3) years after the date on which a member's layoff begins.

*As added by P.L.270-1999, SEC.2.*

### **IC 36-8-10-11.5**

#### **"Care" defined; payments for care**

Sec. 11.5. (a) As used in this section, "care" includes:

- (1) medical and surgical care;
- (2) medicines and laboratory, curative, and palliative agents and means;

(3) X-ray, diagnostic, and therapeutic service, including service during the recovery period; and

(4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, a county shall pay for the care of the following persons:

(1) A county police officer who:

(A) suffers an injury; or

(B) contracts an illness;

while the officer is on duty or while the officer is off duty and is responding to an offense or a reported offense.

(2) A jail employee who:

(A) suffers an injury; or

(B) contracts an illness;

while the employee is on duty.

(c) Expenditures required by subsection (b) shall be paid from the general fund of the county.

*As added by P.L.228-1991, SEC.1.*

## **IC 36-8-10-12**

### **Pension trust**

Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

(A) the department through a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund

may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars (\$20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars (\$20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of

service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department and the state insurance department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.203-1984, SEC.1; P.L.38-1986, SEC.7; P.L.313-1989, SEC.4; P.L.312-1989, SEC.5; P.L.267-1993, SEC.1; P.L.152-1994, SEC.2; P.L.230-1996, SEC.3; P.L.233-1997, SEC.1; P.L.40-1997, SEC.10; P.L.234-1997, SEC.1; P.L.253-1997(ss), SEC.32.*

### **IC 36-8-10-12.1**

#### **Maximum monthly pension**

Sec. 12.1. (a) This section applies to an employee beneficiary who:

(1) retires after June 30, 1997; and

(2) served in a county that has adopted an ordinance stating that the maximum monthly pension for an employee beneficiary who retires after June 30, 1997, shall be determined under this section instead of section 12(j) of this chapter.

(b) As used in this section, "average monthly wage" means the lesser of:

(1) the average monthly wage received by the employee beneficiary during the highest paid three (3) years before retirement; or

(2) the monthly minimum salary that a full-time prosecuting attorney is entitled to be paid by the state at the time the employee beneficiary retires.

(c) Except as provided in subsection (d), an employee beneficiary's monthly pension may not exceed twenty dollars (\$20) plus one-half (1/2) the amount of the average monthly wage.

(d) The fiscal body of a county may approve an increase in the maximum monthly pension for an employee beneficiary. The maximum monthly pension may:

(1) be increased by one percent (1%) of the average monthly wage for each six (6) months of service after twenty (20) years; and

(2) not exceed seventy-four percent (74%) of the average monthly wage plus twenty dollars (\$20).

*As added by P.L.233-1997, SEC.2.*

### **IC 36-8-10-13**

#### **Pension trust; participation by sheriff**

Sec. 13. A sheriff may participate in the pension trust in the same manner as a county police officer. In addition, a sheriff who is not participating in the pension trust after the creation of the pension trust in his county may make a payment to the pension trust in the amount of contributions he would have made had he been participating while a sheriff, plus interest at three percent (3%) compounded annually. The sheriff is entitled to credit for the years of service as a sheriff for all purposes of the pension trust if he makes this payment.

*As added by Acts 1981, P.L.309, SEC.61.*

### **IC 36-8-10-14**

#### **Death benefit program**

Sec. 14. (a) The department may establish and operate a death benefit program for the payment of death benefits to deceased employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining group life insurance, or both. However, the department may not establish or modify a death benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any death benefits set forth in any death benefit program that was in effect on January 1, 1989.

(b) Benefits payable under a group life insurance policy

established under subsection (a) must be in reasonable amounts. Benefits payable from a reserve account established under subsection (a) may not exceed twenty-five thousand dollars (\$25,000).

*As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1981, P.L.48, SEC.3; P.L.313-1989, SEC.5; P.L.168-1990, SEC.2.*

#### **IC 36-8-10-15**

##### **Disability benefit program**

Sec. 15. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to disabled employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining disability insurance coverage, or both. However, the department may not establish or modify a disability benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any disability benefits set forth in any disability program that was in effect on January 1, 1989.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of pension to which that employee beneficiary employed until normal retirement age would have been entitled.

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.313-1989, SEC.6; P.L.185-2002, SEC.13.*

#### **IC 36-8-10-16**

##### **Dependent's pension benefit; establishment and operation; maximum monthly pension payable; eligibility**

Sec. 16. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children under eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining appropriate insurance coverage, or both. However, the department may not establish or modify a dependent's pension benefit after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

- (1) died before January 1, 1990; and
- (2) were covered by a benefit plan established under this section.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars (\$200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent

children is thirty dollars (\$30) per child and ceases with the last payment before attaining eighteen (18) years of age.

(c) This subsection applies to survivors of employee beneficiaries who:

- (1) died after December 31, 1989; and
- (2) were covered by a benefit plan established under this section.

The monthly pension payable to dependent parents or surviving spouses must be not less than two hundred dollars (\$200) for each month during the parent's or the spouse's lifetime or until the spouse remarries. The monthly pension payable to each dependent child must be not less than thirty dollars (\$30) for each child and ceases with the last payment before attaining eighteen (18) years of age.

(d) The county fiscal body may by ordinance provide an increase in the monthly pension of survivors of employee beneficiaries who die before January 1, 1990. However, the monthly pension that is provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(e) In order to be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of the employee's retirement or death in service.

*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.203-1984, SEC.2; P.L.313-1989, SEC.7; P.L.314-1989, SEC.2.*

## **IC 36-8-10-16.5**

### **Health insurance for surviving spouse and children**

Sec. 16.5. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) After December 31, 2003, the department that employed the eligible employee who died in the line of duty shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild,



or adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

*As added by P.L.86-2003, SEC.10. Amended by P.L.97-2004, SEC.130.*

#### **IC 36-8-10-17**

##### **Police benefit fund**

Sec. 17. (a) The death benefit, the disability benefit, and the dependents' pension may be operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee receives and holds as trustee for the uses and purposes set out in the supplementary trust agreement all money paid to it as trustee by the department or by other persons.

(c) The trustee may, under the terms of the supplementary trust agreement, pay the necessary premiums for insurance, pay benefits, or pay both as provided by this chapter.

(d) The trustee shall hold, invest, and reinvest the police benefit fund in investments that are permitted by statute for the investment of trust funds and other investments that are specifically designated in the supplementary trust agreement.

(e) Within ninety (90) days after the close of the fiscal year, the trustee, with the assistance of the pension engineers, shall prepare and file with the department and the state insurance department a detailed annual report showing receipts, disbursements, and case histories, and making recommendations regarding the necessary contributions required to keep the program in operation. Contributions by the department shall be provided in the general appropriations to the department. However, these contributions are not required for plans established or modifications adopted after June 30, 1989, under sections 14 through 16 of this chapter unless the establishment or modification is approved by the county fiscal body.  
*As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.313-1989, SEC.8.*

#### **IC 36-8-10-18**

##### **Repealed**

*(Repealed by P.L.185-1996, SEC.18.)*

#### **IC 36-8-10-19**

##### **Restrictions on alienation of benefits; expenses**

Sec. 19. A person entitled to a interest in or share of a pension or benefit from the trust funds may not, before the actual payment, anticipate it or sell, assign, pledge, mortgage, or otherwise dispose of or encumber it. In addition, the interest, share, pension, or benefit is not, before the actual payment, liable for the debts or liabilities of the person entitled to it, nor is it subject to attachment, garnishment, execution, levy, or sale on judicial proceedings, or transferable, voluntarily or involuntarily. The trustee may expend the sums from

the fund that it considers proper for necessary expenses.  
*As added by Acts 1981, P.L.309, SEC.61.*

#### **IC 36-8-10-20**

##### **Repealed**

*(Repealed by P.L.22-1984, SEC.2.)*

#### **IC 36-8-10-20.1**

##### **County sheriffs' standard vehicle marking and uniform commission; establishment; adoption of rules; limitation of authority**

Sec. 20.1. (a) A county sheriffs' standard vehicle marking and uniform commission is established. The commission consists of three (3) members, not more than two (2) of whom may be of the same political party. Members of the commission shall be appointed by the governor for four (4) year terms. Each member must be an elected and acting county sheriff. The governor shall fill a vacancy on the commission for the unexpired term. Members serve without compensation.

(b) The commission shall, by rules adopted under IC 4-22-2, establish the following for sheriffs and their full-time paid deputies:

(1) A uniform of standard design and color.

(2) A standard design and color of vehicle marking for all county owned vehicles used by the sheriff's department.

The rules adopted under this subsection must provide exceptions for unmarked cars and plainclothes deputies.

(c) All vehicles and uniforms purchased after the effective date of the rules adopted under subsection (b) must meet the standards established by the rules. The commission's authority is limited to establishing standards for:

(1) uniforms worn by county sheriffs and their full-time paid deputies; and

(2) vehicles used by the sheriff's department.

*As added by P.L.224-1986, SEC.1.*

#### **IC 36-8-10-21**

##### **Application to certain counties; jail commissary fund; disposition of money from commissary sales; record of receipts and disbursements**

Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or his designee, shall deposit all money from commissary sales into the fund, which he shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or his designee, at his discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (1) merchandise for resale to inmates through the commissary;
- (2) expenses of operating the commissary, including, but not limited to, facilities and personnel;
- (3) special training in law enforcement for employees of the sheriff's department;
- (4) equipment installed in the county jail;
- (5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;
- (6) an activity provided to maintain order and discipline among the inmates of the county jail;
- (7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:
  - (A) Substance abuse.
  - (B) Child abuse.
  - (C) Domestic violence.
  - (D) Drinking and driving.
  - (E) Juvenile delinquency;
- (8) expenses related to the establishment, operation, or maintenance of the sex offender web site under IC 36-2-13-5.5; or
- (9) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the county fiscal body. The semiannual reports are due on July 1 and December 31 of each year. *As added by Acts 1981, P.L.48, SEC.4. Amended by P.L.395-1987(ss), SEC.1; P.L.19-1987, SEC.51; P.L.80-2000, SEC.1; P.L.116-2002, SEC.28.*

#### **IC 36-8-10-22**

**Application to certain counties; inmates' money to be held in trust; disbursements from trust; payments upon discharge or release of inmates; reimbursement for destroyed or lost property; record of trust receipts and disbursements**

Sec. 22. (a) This section applies to any county that operates a county jail.

(b) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf

of that inmate.

(c) If the inmate or his legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including but not limited to a disbursement to the county jail commissary.

(d) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or his legal guardian any balance remaining in his trust fund.

(e) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.

(f) The sheriff shall maintain a record of each trust fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record.

*As added by Acts 1981, P.L.48, SEC.5. Amended by P.L.72-1994, SEC.2; P.L.80-2000, SEC.2.*

### **IC 36-8-10-23**

#### **Cost of living payment to retired or disabled employee beneficiaries; adoption of ordinance**

Sec. 23. (a) This section applies to a county that adopts the provisions of this section by an ordinance of the county fiscal body.

(b) The county fiscal body may provide for:

(1) an annual cost of living payment to retired or disabled employee beneficiaries, or both; or

(2) an ad hoc cost of living payment to retired or disabled employee beneficiaries, or both. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 12 or 12.1 of this chapter.

(c) In the case of an annual cost of living payment granted under subsection (b)(1), the amount of the cost of living payment shall be determined each year by the pension engineers under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(d) In the case of a cost of living payment granted under subsection (b)(2), the amount of the cost of living payment shall be determined by the county fiscal body and may be:

- (1) a percentage increase, not to exceed the percentage determined under subsection (c); or
- (2) a fixed dollar amount.

(e) A payment authorized under this section shall be made to each authorized retired or disabled employee beneficiary and may be made annually, semiannually, quarterly, or monthly.

(f) A cost of living payment granted under this section shall be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

(g) A cost of living payment granted under this section is applicable only to retired or disabled employee beneficiaries who are at least fifty-five (55) years of age.

(h) No provision of this section shall be made part of any ordinance or agreement concerning collective bargaining. No provision of this section shall be subject to bargaining under any statute, ordinance, or agreement.

*As added by P.L.150-1992, SEC.1. Amended by P.L.1-1993, SEC.248; P.L.233-1997, SEC.3.*